

**STATEMENT OF PAUL HOFFMAN, DEPUTY ASSISTANT SECRETARY FOR
FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR,
BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION, REGARDING OVERFLIGHTS OF NATIONAL PARKS.**

OCTOBER 3, 2002

I wish to thank the committee for the opportunity to appear today to discuss the implementation of public laws regarding overflights of national parks. Since 1975 Congress has addressed the issue of aircraft overflights of national parks three times, with particular emphasis on Grand Canyon National Park. I would like to summarize for the committee the Department's progress on implementing these laws both at Grand Canyon National Park and across the entire National Park System.

Passed in January, 1975, Public Law 93-620, "The Grand Canyon National Park Enlargement Act", requires the Secretary to determine whether aircraft overflights are likely to pose a threat to visitor safety and whether there is a "significant adverse effect to natural quiet and experience of the park." If such threats are found, the Secretary has a responsibility to make recommendations to the Federal Aviation Administration (FAA) for any rules, regulations, or any other appropriate actions to mitigate these impacts. In accordance with Public Law 93-620, acoustic and sociological studies were completed and a public planning process was

progressing. However, the studies and process were truncated by a mid-air collision between two air tour aircraft in 1986 and PL 100-91, the National Parks Overflights Act of 1987, was passed the following year.

Section 3 of Public Law 100-91 specifically addressed the restoration of natural quiet at Grand Canyon National Park. Under this law, the Secretary is directed to submit recommendations to the Administrator of the FAA regarding "actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights." The Act requires the FAA to implement the recommendations of the Secretary without change unless the Administrator determines that implementing the regulation adversely affects aviation safety. The Department forwarded recommendations to the FAA in December, 1987, which became part of Special Federal Aviation Regulation 50-2 (SFAR 50-2). The regulation, which became effective in September, 1988, established fixed routes, altitudes for air tours, and flight-free zones.

Public Law 100-91 also required the National Park Service (NPS) to submit a report to Congress on whether the FAA's SFAR 50-2 "has succeeded in substantially restoring the natural quiet in the park," and to suggest revisions to the regulation. The National Park Service conducted extensive acoustical and

sociological research between 1989 and 1993 to meet this requirement. The NPS submitted a Report on Effects on Aircraft Overflights on the National Park Service to Congress on September 12, 1994. The report to Congress recommended many revisions to SFAR 50-2 to substantially restore natural quiet at Grand Canyon National Park.

FAA Final Rules (1996) established reporting requirements, changed airspace restrictions and routes for air tours, capped the number of aircraft authorized for air tours at Grand Canyon, and set curfews for air tours in the eastern Canyon. Some of the airspace and route changes were implemented, while others were deferred in order to permit further discussions with DOI on proposed new routes and further consultation with Indian tribes bordering the Park. The 1996 Final Rule has been the subject of several legal challenges that were unsuccessful.

Title VIII of P.L. 106-181, the National Parks Air Tour Management Act, addresses the management of aircraft overflights for the entire National Park System. Specific provisions for Grand Canyon National Park affirm the requirement to achieve substantial restoration of natural quiet. In addition, it requires a definition of “quiet aircraft technology” and the creation of quiet aircraft technology incentive routes, provided these routes would not negatively impact substantial restoration of natural quiet, Native American lands, or safety.

Litigation on the two FAA Final Rules issued in 2000 was filed by the U.S. Air Tour Association (USATA) and an environmental coalition led by the Grand Canyon Trust. The USATA sought to have the flight caps rule set aside largely for procedural reasons. The environmental coalition asked the court to order the FAA to follow the wording of P.L 100-91, and use the annual peak day, rather than average annual day, in modeling the achievement of substantial restoration of quiet. Use of annual peak day levels sets a higher standard, which means that summer visitors, and visitors on any day, will experience substantial restoration of natural quiet.

In August, 2002, the U.S. Court of Appeals issued a decision regarding the suit filed by the USATA which had two significant outcomes. The court held that the use of an annual average day for measuring “substantial restoration of the natural quiet” appears inconsistent and remanded the issue to the agencies for further consideration and clarification. Second, the court concluded that exclusion of non-tour aircraft from the noise-model was arbitrary and capricious and must also be reconsidered by the agencies.

The courts ruled in favor of the NPS as the appropriate agency to set the goal for substantial restoration of quiet. The NPS has determined that having 50% of the

park quiet for 75% of the time would meet the goal of having substantial restoration of quiet in the Grand Canyon National Park. Various factors impact the attainment of this goal, including the choice of acoustic model, whether average day or peak day measurements are used, and which sound data are used for modeling aircraft noise. The NPS is currently reviewing the impacts of these factors.

The FAA and NPS are jointly funding a computer model validation study at Grand Canyon National Park. The study compares modeling results with field acoustic observations to determine the degrees of accuracy and precision that existing computer models provide. The study compares models developed by the FAA, NPS, and the U.S. Air Force and National Aeronautical and Space Administration. A Technical Review Committee (TRC), a panel of internationally recognized experts in acoustics and experimental research design, has provided their technical expertise to validate the research methodology and review study results. It is expected that the final report will be available to the public in the fall of 2002.

Regarding the nationwide implementation of the National Parks Air Tour Management Act of 2000 (P.L. 106-181), we continue to work closely with the Federal Aviation Administration in many ways to implement the Air Tour Management Plan provisions that would establish a requirement of an air tour

management plan for all commercial air tour operations over national parks to mitigate or prevent any significant adverse effects on natural and cultural resources, park visitors or affected tribal lands.

The FAA has been working through the process of developing regulations to implement provisions of the National Parks Air Tour Management Act with some delay resulting from the change in Administration. Consistent with the Administration's objective of encouraging interagency collaboration in these matters, the Department of the Interior is working with the Department of Transportation to establish cooperative procedures for the preparation of the Air Tour Management Plans. With respect to Grand Canyon National Park, use of an Alternative Dispute Resolution process is currently under consideration as a vehicle for reaching collaborative agreement on the best way to restore natural quiet and to retain the opportunity for the public to enjoy the park via air tours.

Thank you, Mr. Chairman, for this opportunity to testify and we would be most happy to answer any questions the Committee may have for us.